

Appl. No. 09/900,359

Reply to Office Action of 11/17/2004

REMARKS/ARGUMENTS

Claims 1 - 15 and 40 - 52 are presented for the Examiner's consideration. Claims 16 - 39 have been canceled without prejudice in an effort to advance the prosecution of the application with regard to the embodiments shown in Figures 36 - 45. (Claims 29 - 37 were previously canceled with regard to a restriction requirement.) Pursuant to 37 C.F.R. § 1.114 Request for Continued Examination, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claim 15 stands rejected under 35 U.S.C. § 112 as indefinite. The Applicants have amended claim 15 as suggested by the Examiner. As such, the Applicants ask that the pending indefinite rejection to claim 15 be withdrawn.

Claim 1 has been amended and new claims 41 - 52 submitted to further define the Applicants' invention. Claims 10 - 15 and 40 have been amended for consistency with amended claim 1 and the cancelled claims. Support for the various amendments and new claims can be found at page 43, line 3 through page 46, line 3. No new matter is believed to be introduced by the currently pending claims.

Claims 1 - 28 and 38 - 40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over EP 0 930 243 A1 published by Chasid. Chasid discloses a wet wipes package including a flexible pouch 22, having a rigid base member 3 and a lid 7 for closing an opening 25 in the pouch. Additionally, Chasid discloses two resilient flaps 9 located in the opening through which the wet wipes are dispensed as seen in Figure 3. The two flaps taken together form a gap 13 through which the wipes can be dispensed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure. See MPEP § 2143 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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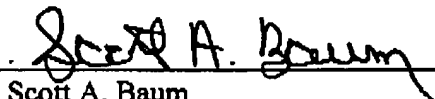
Since Chasid fails to disclose or suggest a flexible elastic sealing orifice sealing a rigid port and having a continuous slit, a *prima facie* case of obviousness has not been established. Furthermore, with regard to claims 41 – 43, the specific geometry for the continuous slit is not disclosed or suggested by Chasid. Additionally, the resilient flaps 9 of Chasid fail to seal the opening 5 of the base member 3 as claimed by the Applicants. Note how the resilient flaps 9 are much smaller than the opening 5 in the base member 3 leaving significant open areas between the resilient flaps and the base member – especially at the sides of the base member 3. See Figures 1, 5, 6, and 7 of Chasid. As such, the moisture loss from the Chasid dispenser is quite rapid if the lid 7 is inadvertently left open. Whereas in the Applicants' dispenser, the flexible elastic sealing orifice 320 seals the rigid port 312 as best seen in Figures 36, 37, and 38. This can significantly reduce moisture loss from the dispenser.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,

MICHAEL J. FAULKS ET AL.

By



Scott A. Baum

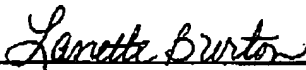
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on February 11, 2005.

By



Lanette Burton